

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
Civil Action No.: 3:25-cv-00102-RJC-WCM**

FS MEDICAL SUPPLIES, LLC,

Plaintiff,

v.

**TANNERGAP, INC., TANNER PHARMA
UK LIMITED, RAYMOND FAIRBANKS
BOURNE, AKA “BANKS” BOURNE, AND
MARY EVERETT WHITEHURST
BOURNE, AKA “MOLLY” BOURNE,**

Defendants.

**THE BOURNE DEFENDANTS’
MOTION FOR JUDGMENT ON
THE PLEADINGS UNDER RULE
12(c)**

or, in the alternative, to

**DISMISS OR STAY THIS ACTION
PENDING FINAL RESOLUTION
OF FSMS I AND FSMS II**

Defendants Raymond Fairbanks Bourne and Mary Everett Whitehurst Bourne (the “Bournes”), move this Court to dismiss this action pursuant to Federal Rule of Civil Procedure 12(c) or, in the alternative, to dismiss or stay this action pending final resolution of FSMS I and FSMS II. As is more fully explained in the brief filed contemporaneously herewith, this Court should grant the Bournes’ Motion for Judgment on the Pleadings under Rule 12(c) for the following reasons:

1. The UVTA claims alleged against the Bournes, and the alter ego “claim” alleged against Mr. Bourne, are derivative of the liability claims against the Tanner Defendants. These claims against the Bournes therefore fail because the Tanner Defendants have no liability to FSMS, as explained in the Tanner Defendants’ contemporaneously filed Memorandum of Law in Support of their Rule 12(b)(6) Motion to Dismiss the Complaint.

2. The applicable statute of limitations bars FSMS's unfair trade practices claim against Mr. Bourne because no actionable conduct by Mr. Bourne occurred on or after February 11, 2021.

3. Therefore, the Bournes are entitled to judgment as a matter of law and this action should be dismissed.

4. In any event, even if the UVTA claims against the Bournes were not otherwise subject to dismissal, the UVTA claims with respect to all transfers made prior to February 11, 2021 (alleged to be \$62 million) fail and should be dismissed under a four-year statute of repose.

Wherefore, the Bournes pray that this Court enter an order dismissing this action and afford the Bournes such other and further relief as may be just and proper.

This the 13th day of March, 2025.

s/ Robert W. Fuller

Robert W. Fuller

N.C. Bar No. 10887

Amanda P. Nitto

N.C. Bar No. 45158

Anna Claire Tucker

N.C. Bar No. 59457

ROBINSON, BRADSHAW & HINSON, P.A.

600 S. Tryon St., Ste. 2300

Charlotte, North Carolina 28202

Telephone: 704.377.2536

Facsimile: 704.378.4000

rfuller@robinsonbradshaw.com

anitto@robinsonbradshaw.com

atucker@robinsonbradshaw.com

*Counsel for Defendants Raymond Fairbanks
Bourne and Mary Everett Whitehurst Bourne*